

LAW ON THE
**HUMAN RIGHTS
AND EQUALITY
INSTITUTION OF
TÜRKİYE**



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**HUMAN RIGHTS AND EQUALITY
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SECTION ONE

Objective, Scope and Definitions

Objective and Scope

ARTICLE 1- (1) The purpose of this law is to regulate the principles pertaining to the establishment, organization, duties and powers of the Human Rights and Equality Institution of Türkiye, which will work on the basis of human dignity, towards protection and promotion of human rights, guaranteeing individuals' right to equal treatment, prevention of discrimination in the exercise of legally recognized rights and freedoms and which will carry out actions in line with these principles, effectively fight against torture and ill-treatment and act as National Preventive Mechanism.

Definitions

ARTICLE 2 - (1) For the purposes of this Law, the following terms shall have the meaning indicated;

a) Segregation: Separation of persons from others for reason of one or more of the grounds cited in this Law as a result of an action or inaction,

b) Instruction to Discriminate: An instruction given by a person to other persons authorized to act on her/his behalf or account or by a public officer to other persons to discriminate

c) The Head: The Head of the Human Rights and Equality Institution of Türkiye,

ç) Multiple discrimination: A discriminatory practise based on more than one grounds of discrimination,

d) Direct Discrimination: Any kind of different treatment that prevents or makes difficult, on grounds of discrimination cited in this Law, the exercise of legally recognized rights and freedoms by a natural person or legal person in an equal manner as compared to comparable persons,

e) Indirect Discrimination: Any kind of seemingly non-discriminatory act, procedure or practise which puts a natural person or legal person at an objectively unjustifiable disadvantage in terms of exercise off legally recognized rights and freedoms in connection with the grounds of discrimination described in this Law,

f) Disabled: An individual affected by attitudes and environmental conditions restricting his/her full and effective participation in the society in equal conditions with other individuals due to varying degrees of loss of physical, mental, psychological and sensory abilities,

g) Mobbing: Deliberate actions intended for alienating, excluding and putting-off a person from his/her job on grounds of discrimination cited in this Law,

ğ) Public Officer: A person taking part in the performance of public services through appointment or election or otherwise permanently, for a definite period or temporarily,

h) Board: Human Rights and Equality Board of Türkiye,

i) Institution: The Human Rights and Equality Institution of Türkiye,

i) Reasonable Accommodation: Proportional, necessary and appro-

appropriate modifications and measures taken to the extent allowed by financial means and needed in a given circumstance to enable the disabled to fully exercise and benefit from their rights and freedoms and in an equally manner to other individuals,

j) Harassment: Any kind of intimidating, humiliating, degrading or embarrassing behaviour including any behaviour of psychological or sexual nature intended for degrading a person or having a degrading consequence based on any of the grounds cited in this Law,

k) National Preventive Mechanism: The system put in place to carry out regular visits to places where persons are deprived of their liberty within the framework of the Optional Protocol to the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,

l) Practical Work Experience: Development of knowledge, skills and professional habits required by a profession concurrently with a training or at work after the training,

m) Discrimination Based on an Assumed Ground: Instances where a natural person or legal person who, although not really bearing one of the grounds of discrimination cited in this Law, is subject to a discriminatory treatment in terms of exercise of legally recognized rights and freedoms based on the assumption that s/he bears one of these grounds.

SECTION TWO

Fighting Against Discrimination

Principle of Equality and Non-Discrimination

ARTICLE 3 – (1) All are equal in the exercise of legally recognized rights and freedoms.

(2) It is prohibited under this Law to discriminate against persons based on the grounds of sex, race, colour, language, religion, belief, sect, philosophical or political opinion, ethnical origin, wealth, birth, marital status, health status, disability and age.

(3) Where the principle of non-discrimination is violated, relevant competent and responsible public institutions and agencies and public professional organizations with public institution status shall take necessary actions with a view to putting an end to the violation, remedying its consequences, preventing its repetition and ensuring the launch of administrative and judicial proceedings into it.

(4) Natural persons and legal persons created under private law who bear responsibility in respect of non-discrimination shall take necessary measures for detection of discrimination, elimination thereof and ensuring equality in respect of matters falling under their mandate.

Types of Discrimination

ARTICLE 4 – (1) Types of discrimination falling into the scope of this Law are as follows:

a) Segregation.

b) Instruction to discriminate and implementing such instructions.

- c) Multiple discrimination.
- ç) Direct discrimination.
- d) Indirect discrimination.
- e) Mobbing.
- f) Failure to make reasonable accommodations.
- g) Harassment.
- ğ) Discrimination based on an assumed ground.

(2) Unfavourable treatments sustained by persons who launch administrative or judicial proceedings or take part in such proceedings in order to ensure the respect of the principle of equal treatment and prevent discrimination as well as by representatives of such persons on account of such proceedings also constitute a discrimination.

Scope of non-discrimination

ARTICLE 5 – (1) Public institutions and agencies, professional bodies with public institution status, natural persons and legal persons established under private law providing services of education and training, judiciary, law enforcement, health, transportation, communication, social security, social services, social assistance, sports, accommodation, culture, tourism and similar services shall not discriminate, in respect of their activities, against persons who use or have applied to use or wishing to be informed of such services. This provision also covers access to buildings and spaces where public services are provided.

(2) Persons and institutions who are responsible for the planning, provision and inspection of the services cited in the first paragraph shall have to take into account the needs of groups with different

disabilities and make reasonable accommodations.

(3) When offering movable and immovable property to public; public institutions and agencies, professional bodies with public institution status, natural persons and legal persons established under private law and those authorize by them shall never discriminate against those who wish to acquire or rent such property and wish to receive information thereon at any stage during the lease of such property, formulation of the conditions of the contract of lease, renewal of the contract of lease or termination thereof, sale or assignment.

(4) There shall be no discrimination against any person in terms of joining associations, foundations, labour unions, political parties and professional organizations, being elected to their bodies, benefiting from membership opportunities, termination of membership as well as participating in and benefiting from their activities.

Employment and self-employment

ARTICLE 6 – (1) An employer or a person authorized by an employer; shall not discriminate against an employee or a person applying to be employed, a person acquiring practical work experience at an undertaking or a person applying for this purpose or against a person wishing to receive information on the undertaking or the work for the purpose of working or acquiring practical work experience there in any stage of the work including getting information, application, section criteria, hiring criteria and working and termination of the employment.

(2) First paragraph shall also cover vacancy announcements, work place, working conditions, access to all levels and kinds of occupational guidance, occupational training and retraining, promotion and access to all levels of professional hierarchy, in-service training, social benefits and similar issues.

(3) An employer or a person authorized by an employer shall not reject an employment application for reason of pregnancy, maternity or child care.

(4) There shall be no discrimination in terms of admission into, licence, registration, discipline and similar issues of self-employment.

(5) This Article also covers all kinds of contracts of work and performance not falling into the scope of the Labour Law dated 22/5/2003 and no 4857.

(6) Employment in public institutions and agencies is subject to the provisions of this Article.

Instances where a claim of discrimination cannot be made

ARTICLE 7 – (1) Cases and exceptions where a claim of discrimination cannot be made under this Law are as follows:

a) Different treatment which is fit for purpose and proportional and necessitated by imperative professional requirements in employment and self-employment.

b) Cases making it imperative to employ a certain sex.

c) Determining and applying age limits during admission into work and employment due to the necessities of the service, different treatment based on age provided that it is necessary and proportional.

ç) Special measures and protective measures pertaining to children and persons who have to be kept at a certain place.

d) Employment at a religious establishment of persons who are members of that religion for the purpose of religious service or delivering training and education on that religion.

e) Requirement of certain conditions and qualifications related to persons wishing to join associations, foundations, trade unions, political parties and professional organizations based on purposes, principles and values mentioned in their relevant legislation and statutes.

f) Different treatment which is intended for eliminating inequalities and which is necessary, fit for purpose and proportional.

g) Different treatment towards non-citizens arising from conditions pertaining to their entry into and residence in the country and from their legal status.

SECTION THREE

Establishment, Organizational Structure and Duties

Human Rights and Equality Institution of Türkiye

ARTICLE 8 - (1) (Amended 2/7/2018 - Decree Law - Article 703/149)
The Human Rights and Equality Institution of Türkiye, affiliated to the Minister which nominated by the President of the Republic of Türkiye, with public legal entity status and administrative and financial autonomy, has been established in order to fulfil the duties and execute the powers conferred on it by this Law and other relevant legislation. The President of the Republic of Türkiye may exercise powers regarding the administration of this organization through the Minister whenever deems necessary.

(2) The Institution shall comprise a Board and Presidency.

Duties of the Institution

ARTICLE 9 – (1) The duties of the Institution are as follows:

- a) Working to protect and promote human rights, prevent discrimination and remedy violations.
- b) Raising public awareness on human rights and non-discrimination through providing information and education including by use of mass media.
- c) Contributing to the preparation of the parts of the curriculum of the Ministry of National Education relating to human rights and non-discrimination.
- ç) Carrying out joint activities with universities with a view to protecting human rights, eliminating discrimination and promoting an understanding of equality in society, contributing to the establishment of human rights and equality-related departments at universities in coordination with the Council of Higher Education and to determining the curriculum for human rights and equality education.
- d) Contributing to the development of principles of pre-service and in-service human rights and equality trainings of public institutions and agencies and to the delivery of such training programs.
- e) Following and assessing development of legislation on issues falling under its mandate and submitting its opinions and proposals thereon to relevant authorities.
- f) Inquiring into, examining, taking a final decision on and monitoring the results of violations of human rights – ex officio.
- g) Inquiring into, examining, taking a final decision on and monitoring the violations of non-discrimination principle – ex officio or upon

an application

ğ) Guiding persons applying to the Institution based on a claim of being victim of an alleged violation of non-discrimination principle about administrative and legal remedies they may seek to remedy the violation and helping them to follow their applications.

h) Fighting against torture and ill-treatment and taking actions for this purpose.

i) Acting as the National Preventive Mechanism within the framework of the provisions of the Optional Protocol to the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

i) Inquiring into, examining, taking a final decision on and monitoring the results of applications filed by persons deprived of their liberty or placed under protection falling into the scope of the National Preventive Mechanism.

j) Undertaking regular visits, with or without prior notice, to places where those deprived of their liberties or those under protection are held; delivering the reports related to such visits to relevant agencies and organizations, and disclosing such report to the public when considered necessary by the Board; examining and evaluating the reports regarding visits made to such places by boards/ committees that monitor prisons and detention houses, provincial and sub-provincial human rights boards and other relevant individuals, agencies and organizations.

k) Preparing annual reports related to the protection and promotion of human rights, fight against torture and ill-treatment and fight against discrimination which will be submitted to the President of the Republic of Türkiye and Bureau of the Grand National Assembly of Türkiye.¹

¹ With the 149th article of the Decree Law No. 703 dated 2/7/2018, the phrase "to the Bureau of the Grand National

l) Providing information to the public opinion, publishing special reports on matters falling under its mandate in addition to regular annual reports when deemed necessary.

m) Following and assessing international developments in areas of human rights and non-discrimination, cooperating with international organizations working in the field within the framework of relevant legislation.

n) Cooperating with public institutions and agencies, non-governmental organizations, professional organizations and universities working in the field of protection of human rights and fight against discrimination

o) Supporting other institutions in their work for prevention of discrimination.

ö) Monitoring the implementation of international human rights conventions to which Türkiye is a party to. Submitting opinions during the process of preparation of the reports which the State is under the obligation to submit to review, monitoring and supervisory mechanisms established by these conventions, by also making use of relevant nongovernmental organizations; and participating in the international meetings where such reports are to be submitted, via sending a delegate.

p) Carrying out other tasks given by the law.

(2) Public institutions and agencies and officers have the responsibility to assist and facilitate the visits undertaken under the paragraph one, subparagraph (j).

(3) The Institution shall brief the Human Rights Inquiry Committee and Committee on Equality of Opportunity for Women and Men of

Assembly of Türkiye and to the Prime Ministry" in this paragraph was amended as "and the Bureau of the Grand National Assembly of Türkiye"

the Turkish Grand National Assembly in relation to the exercise of its duties and mandate at least once a year.

Board

ARTICLE 10 – (1) The Board is the decision-making body of the Institution. The Board shall exercise its duties and powers given by this Law and other legislation under its own responsibility and independently. No body, authority, office or individual shall give orders nor instructions nor recommendations or suggestions to the Board on matters falling under its mandate.

(2) (Amended 2/7/2018 – Decree Law – Article 703/149) The Board shall consist of eleven members, including a Head and a Deputy Head. Members of the Board shall be selected by the President of the Republic of Türkiye.

(3) Two months before the expiry of mandate of the members selected by the President of the Republic of Türkiye under the paragraph two, the vacancy shall be announced to the public by the Institution through appropriate means of communication. Applications and nominations shall be filed at the Presidency. New members selected under the procedure mentioned in the paragraph two shall take office as from the expiry of the mandate of the member they replace.²

(4) In order to be eligible for membership in the Board, one must:

a)(Repealed: 2/7/2018 – Decree Law – Article 703/149)

b) Have the qualifications mentioned in the Civil Servants Law dated 14/7/1965 and no 657, Article 48, paragraph one, sub-paragraph (A), sub-section (1), (4), (5), (6) and (7).

² With the 149th article of the Decree Law No. 703 dated 2/7/2018, the phrase “by the Council of Ministers” in the third paragraph of the article 10 was amended as “by the President of the Republic of Türkiye”, the phrase “at the Prime Ministry” was amended as “at the Presidency”, the phrase “the Prime Minister” in the eighth paragraph” was amended as “the President of the Republic of Türkiye”

c) Have no function or power at an executive or supervisory body of any political party

ç) Have a bachelor university degree in minimum.

d)(Repealed: 2/7/2018 – Decree Law – Article 703/149)

(5)(Repealed: 2/7/2018 – Decree Law – Article 703/149)

(6)(Repealed 1st and 2nd Sentences: 2/7/2018 – Decree Law – Article 703/149) In case of vacation of any of the member positions before the expiry of the term of office, a new member shall be elected under the same procedure within one month. The member so elected shall serve for the remaining period of the member replaced. The term of office lasting two years or less for such members shall not count as a term for selection.

(7)(Repealed: 2/7/2018 – Decree Law – Article 703/149)

(8) The Head, Deputy-Head and members cannot be dismissed from office for any reason before their office terms expire. However, in cases where the Board determines that the member;

a) has lost or never fulfilled the eligibility criteria for membership,

b) failure of the signing of the Board decisions in due time.

c) has not attended five Board meetings in total during a calendar year without a justifications acceptable to the Board,

ç) is certified by a medical board as incapable to work due to heavy illness disability,

d) is definitely convicted of an offence committed as part of his function,

e) has had more than three months of temporary incapability to work,

f) has been convicted of an offence mentioned in the Law no 657, Article 48, paragraph one, sub-paragraph (A), sub-section (5) and has started to serve his sentence,

her/his membership shall be terminated through the approval of the President of the Republic of Türkiye or a Minister designated by the President of the Republic of Türkiye.

(9) Member's previous function shall be discharged during their term of office in the Board. Unless based on a specific law, members shall take no official or private office other than their office in the Board, shall not serve as manager or supervisor at associations, foundations, cooperatives and similar entities, shall not engage in commerce, shall not perform a self-employed activity or shall not act as arbitrator or expert witness. However, members can make scientific publications, give lectures or conferences in a way that does not disrupt their main duty, and can receive related copy rights and lecture and conference payments.

(10) Those elected as member while serving as a public employee shall - upon the expiry of their office term or a request for leaving office and application filed in thirty days to their previous institution or agency, shall be appointed by the authorized appointment authority to a cadre suitable for their acquired rights provided that they have not lost the criteria of eligibility to public service. Until they are so appointed, they shall continue to receive all their wages from the Institution. The periods they serve in the Institution shall be deemed as have been served at the previous agency or institution in terms of personnel rights and other rights. As regards those who were not working at a public institution when elected as member and whose term of office ends as described above, they shall continue to receive all their wages from the Institution until they take any other office or work. Those whose membership so expires shall continue to receive such payments for no more than three months.

(11) The Head and members shall be subject to the Act no 3628 and dated 19/4/1990 on the Declaration of Property and Fight against Bribe and Corruption.

(12) Members elected shall take the following oath at the first meeting:

“I swear that I will fulfil my duty in full independence, integrity, fairness and justice.”

(13) Under the Law no 4483 and dated 2/12/1999 on the Prosecution of Civil Servants and Other Public Agents, investigation to be launched against the Head and members shall be subject to the permission of the President of the Republic of Türkiye or the Minister delegated by the President of the Republic of Türkiye. Appeals against decisions permitting or not the launch of investigations shall be heard and finalized by the Council of State.³

(14) The Head, members and Institution staff cannot disclose any confidential information belonging to the public, relevant persons or third persons, any personal data, or any confidential data regarding the Institution, any commercial secrets or the documents thereof, to persons other than the bodies authorized by laws in this matter, and cannot use such information for their own interests or for the interest of third parties. This obligation shall continue even after end of office.

Duties and Powers of the Board

ARTICLE 11 – (1) The Board shall have the following duties and powers:

a) To take decisions on arrangements regarding the Institution and its mandate.

³ With Article 149 of the Decree Law No. 703 dated 2/7/2018, the phrase “the Prime Minister” in this paragraph was amended as “the President of the Republic of Türkiye”.

b) To take a decision about application on violations of non-discrimination and ex officio inquiries into violations of human rights or non-discrimination, to conclude the conciliation process when necessary about these applications and inquiries, to issue decisions of administrative sanctions foreseen in this Law against violations of discrimination.

c) To monitor and assess problems related to the enforcement of court decisions on violations of human rights and non-discrimination.

ç) To take decisions on applications filed under the National Preventive Mechanism by persons deprived of their liberty or placed under protection and on ex officio inquiries conducted under the NPM.

d) Upon request, to provide opinion to judicial bodies, public institutions and agencies and to relevant persons concerning matters falling under its mandate.

e) To decide, when deemed necessary, on the membership of the Institution to international organizations working in the relevant field and cooperation of the Institution with such organizations.

f) To take decisions on inquiries and studies, reports prepared and similar works undertaken by the Institution in relation to protection of the human rights, fight against discrimination and functions of the National Preventive Mechanism.

g) To take a final decision on the Strategic Plan of the Institution and to formulate its objectives and targets, service quality standards and performance criteria

ğ) To discuss and finalize the draft budget prepared in line with the strategic plan and objectives and targets of the Institution.

h) To take decisions on the annual reports of the Institution.

- i) To discuss and take final decisions on the proposals related to the purchase, sale and lease of immovable property.
- i) To discharge other duties given by the Law

Working principles of the Board

ARTICLE 12 – (1) The Board shall convene upon the call by the Head. Meetings shall be chaired by the Head. Upon a joint request of at least five members in addition to the Head, the Board shall be immediately called by the Head to a meeting to be held within five days.

(2) The agenda of the meetings shall be prepared by the Head and be communicated to the Board members minimum three days in advance of the meeting. In order to make additions to the agenda, one of the Board members shall come up with the proposal and the Board members shall approve it.

(3) The Board shall convene with at least seven members present and shall decide with the parallel votes of at least six members. Abstaining votes cannot be cast for decisions.

(4) The Board may set up Committees composed of three members from among its members for each field of work.

(5) The Board may set up Chambers with five members in addition to the Head. The Head shall be the ex officio member of the Chambers.

(6) Board decisions shall be recorded in a minute, and the decision minute shall be signed by all attending members either during the meeting or within maximum five working days following the meeting to be finalized. The reasoning of the decisions and the reasoning of the dissident vote if any shall be drawn up within at latest fifteen working days following the date of the meeting. When necessary, such period may be extended by the Board.

(7) The Head and members cannot participate in debates and voting sessions involving themselves, their spouses – even if the bond of marriage has been broken- blood relations up to and including third degree relations including adopted children and relations by marriage up to and including second degree, or in which they have a personal interest. Any such situation shall also be specified in the decision text.

(8) Unless otherwise decided, deliberations of Board meetings shall be confidential.

(9) When considered necessary, relevant persons can be invited to Board meetings in order to hear their opinions. However, Board decisions shall not be taken in the presence of external participants.

(10) Board meetings shall be sent to those concerned within at latest five working days following finalization. The text of the Board decisions shall specify the remedies that may be sought by the persons concerned against the decision as well as prescribed time for such remedies.

(11) When deemed necessary, the Board may announce its decisions to the public through appropriate means provided that it respects the confidentiality of personal data.

(12) The professional and ethical principles applicable to the Board members and Institution staff, the composition, working principles of the Committees and Chambers mentioned in this Article and working principles and procedures of the Board shall be governed by a by-law.

The Head

ARTICLE 13 – (1) The Head is the highest ranking officer of the Institution, and regulates and executes services of the Institution in accordance with the legislation, the purpose and policies of the

Institution, its strategic plan, performance measures and service quality standards, and ensures coordination between service units. The Head shall be responsible for the general management and representation of the Institution.

(2) The duties and powers of the Head are as follows:

a) To determine the date, time and agenda of Board meetings and to chair the meetings.

b) To ensure the notification of Board decisions and the public announcement of decisions when deemed necessary by the Board.

c) To assign coordinators of service units and to appoint other staff members of the Institution.

ç) To finalize the proposals of the service units and submit these proposals to the Board.

d) To prepare the Institution's strategic plan, performance measures and to establish its purpose and objectives, service quality standards as well as human resources and working policies.

e) To prepare the Institution's annual budget and financial tables in accordance with the determined strategies, annual targets and objectives.

f) To prepare annual activity reports, to assess the activities in relation to annual targets and objectives and performance measures and to submit them to the Board.

g) To ensure coordination for the purpose of ensuring that the Board and the service units work in harmony in an effective, disciplined and well-ordered manner.

ğ) To carry out the other duties related to the management and operation of the Institution.

(3) The Deputy Head shall act for the Head in his absence.

The Presidency⁴

ARTICLE 14 – (1) The Presidency shall comprise Vice Heads, service units and working groups. There shall not be more than ten service units. The Presidency shall be responsible for implementing the Board decisions and assisting the Head and the Board in other matters.

(2) The Head of the Board shall also be the Head of the Institution.

(3) Service units shall operate under the coordination of coordinators assigned by the Head.

(4) The Institution may set up ad-hoc committees for six months composed of public institutions and agencies, non-governmental organizations and experts in the relevant field for the purpose of working on issues falling under its mandate. The Head may extend such period by up to three months. When deemed necessary, the Board may extend this six-month period by up to two folds. Costs of the committee meetings, which shall not be more than twice a month, shall be covered by the Institution budget.

(5) When deemed necessary and upon a proposal by the Institution, bureaus attached to the Institution may be set up through decision of the President of the Republic of Türkiye.

(6) Working principles and procedures of the service units and bureaus shall be set forth in a by-law to be put into force by the President of the Republic of Türkiye upon a proposal of the Institution in conformity with its mandate, duties and powers as defined in this Law.

⁴ With the article 149 of the Decree Law No. 703 dated 2/7/2018, the phrase "Cabinet of Ministers" in the fifth paragraph of article 14 was amended as "the President of the Republic of Türkiye", and the phrase "by the decision of Cabinet of Ministers" in the sixth paragraph was amended as "by the President of the Republic of Türkiye".

SECTION FOUR

Personnel Regime

Provisions Governing the Personnel and Personnel Rights

ARTICLE 15 – (1) The personnel of the Institution shall be governed by the Law no 657 in addition to the issues regulated in this Law. Those assigned as coordinator of service units shall be required to fulfil the same eligibility required to be appointed to the cadres of Head of Departments at Ministries. In cases where the monthly net wage paid to them depending on their cadre is less than the monthly net wage paid for the cadres of Head of Department at Ministries depending on the cadre, the difference in between shall also be paid without being subject to any tax and deduction.

(2) Payments to be made to the Head of the Board shall be calculated by using the indicators shown in the 3rd line of the scale no (II) attached to the Decree-Law dated 27/6/1989 and no 375, and those to be made to the Board members according to the indicators shown in the 4th line of the scale in question, within the framework of the principles and procedures provided for in the additional Article 10 of the said Decree-Law. Those payments not subject to tax or other legal deductions shall similarly not be subject to tax or other legal deductions in the payments to be made under this paragraph. The Head and members shall enjoy the same social rights and benefits afforded to civil servants under the Law no 657 and other relevant legislation within the framework of the same principles and procedures

(3) The Head and members shall be subject to the provisions of the Law dated 31/5/2006 and no 5510 on Social Security and General Health Insurance, Article 4, paragraph one, sub-paragraph (c). In

terms of retirement rights, the Head and members and Vice Heads shall be considered equivalent respectively to the President of Revenue Management, directors general of the ministries and vice directors general of the ministries. Regarding those covered by the Law no 5510, provisional article 4 during the term of their office, such periods shall be considered as periods used in calculation of executive compensation and representation compensation. Regarding those elected as member when covered by insurance under the Law no 5510, Article 4, paragraph one, sub-paragraph (c) and whose term of office expires or who request to leave the office; the length of service in such offices shall be taken into account in calculating acquired rights, wages, personnel grade and rank. As regards those elected as member when covered by insurance at their work in public institutions and agencies under the Law no 5510, Article 4, paragraph one, sub-paragraph (a); the severance of their connection with the previous institution or agency shall not necessitate the payment of a severance payment or termination severance to them. Duration of service requiring the payment of a severance payment or termination compensation to those in such categories shall add up to the duration of membership and count as period used in the calculation of pension bonus.⁵

(4) The Board shall designate, by taking into account the matters falling under the mandate of the Institution, three Vice Heads who will assist the Head in his functions within the Institution. To be eligible to be designated as Vice Head, one must;

a) have completed a bachelor degree in minimum,

b) have at least ten years of professional experience in public service,

⁵ With Article 149 of the Decree Law No. 703 dated 2/7/2018, the phrase "Head of State Personnel, Prime Ministry general directors and Prime Ministry deputy general directors" in this paragraph is amended as "President of Revenue Management, directors general of the ministries and vice directors general of the ministries"

c) have the qualifications mentioned in the Civil Servants Law dated 14/7/1965 and no 657, Article 48, paragraph one, sub-paragraph (A), sub-section (1), (4), (5), (6) and (7).

The term of office of Vice Heads shall be four years. Vice Heads whose term expires may be designated again.

(5) The Head may delegate to the Vice Heads or to service unit coordinators some of his duties and powers that are not related to the Board, provided that he explicitly determines the limits of such delegation in writing. Such delegation of authority shall be notified to relevant parties via appropriate means.

(6) At the Institution, contract-based personnel can be employed without being subject to the Law no. 657 and other legislative provisions. Personnel to be employed on contract basis shall be considered as under insurance coverage as per the Law no 5510, Article 4, paragraph one, sub-paragraph (a). Appointment principles and procedures of such personnel shall be determined by the Institution. The net amount of the wage to be paid to them, which shall not exceed the monthly average net amount paid to Grade One Human Rights and Equality Expert, shall be determined by the Head. The number of personnel to be employed under this paragraph shall not exceed the fifteen percent of the total number of posts of Human Rights and Equality Experts and Human Rights and Equality Assistant Experts. Contract-based personnel to be hired under this paragraph must have graduated from departments with minimum bachelor degree determined by the Institution and at least half of them must have obtained a minimum score of (C) from the Foreign Language Proficiency Test for the foreign languages to be determined by the Institution or must hold an equivalent and internally recognized certificate. Persons who have completed their bachelor degree in countries where the native language is one of those determined by the Institution shall not be required to provide a foreign

language certificate. Foreign language-related requirements mentioned in this paragraph shall not be sought from foreign nationals.

(7) Civil servants and other public agents working at centrally-governed public administrations, social security authorities, local administrations, organizations affiliated to local administrations, local administration units, revolving fund organizations, funds established by laws, organizations with public legal entity status, organizations where more than 50% of the capital is held by the public, state economic enterprises and public economic enterprises and their affiliates, partnerships and agencies may be seconded to the Institution with the consent of their employer or, in case of judges and prosecutors, with their own consents, provided that their monthly salaries, appropriations, any and all wage increases and compensations and other financial and social rights and benefits are paid by their employer agencies/organizations. Any requests by the Institution regarding this matter shall be concluded with priority by relevant agencies and organizations. Personnel so seconded shall be considered by their institution to be on paid leave. During the leave period of such personnel, their connection with the civil service and related personnel rights shall continue. Such periods shall be taken into account in respect of their retirement and promotion. They shall be promoted as normally in due time without any further procedure needed. The term of office of those seconded under this Article including judges and prosecutors shall be considered as having been spent in their original institution. Secondment shall not last more than two years. However, when needed, such time may be extended by periods of one year.

Human Rights and Equality Experts and Assistant Experts

ARTICLE 16 – (1) The Institution may employ Human Rights and Equality Experts and Assistant Experts.

SECTION FIVE

Applications and Procedures of Inquiry

Applications

ARTICLE 17 – (1) Each and every natural person and legal person who claim to have suffered from violations of non-discrimination can apply to the Institution. Applications to the Institution may be filed via governorates in provinces and sub-provincial governorates in sub-provinces. Effective enjoyment of the right to application cannot be prevented in any way. There shall be no fee charged for applications.

(2) Before applying to the Institution, those concerned shall demand that the relevant party remedy the practise they allege as contrary to the law. In cases where such demands are turned down or are not replied within thirty days, then they may apply to the Institution. However, where it is likely that damages arise which are irremediable or difficult to remedy, the Institution may accept applications without seeking such condition.

(3) Applications filed at the Institution within the legal period for filing a court case shall suspend such period.

(4) There can be no application filed about acts related to the exercise of legislative and judicial powers, decisions of the Supreme Council of Judges and Prosecutors nor about acts excluded from judicial review under the Constitution.

(5) Applications on alleged discriminations covered by the Law no 4857, Article 5 can be filed in cases where procedures of complaint mentioned in the Law no 4857 and related legislation have been followed but no decision of sanction has been issued.

(6) As much as ex officio inquiries into alleged violations of human rights and non-discrimination are concerned, it is imperative that explicit consent of the victim of violation or his/her legal representative be sought in cases where s/he is identifiable. However, the consent of the legal representative shall not be sought in cases required by the best interest of the child.

(7) In applications to be filed at the Institution, the identity of those under guardianship or protection and children, and of the victim or victims if they so request shall be kept anonymous.

(8) The provisions of this Article shall also apply to applications filed under the Article 9, paragraph one, sub-paragraph (i).

(9) Applications which shall not be processed and reasoned decisions of inadmissibility as well as other principles and procedures related to applications shall be set forth through a by-law.

Inquiries into violations

ARTICLE 18 - (1) The Institution shall conclude applications and its ex officio inquiries within at latest three months following the date of application and ex officio inquiry decision. Such period may be extended by the Head by at most three months for once.

(2) The Institution shall ask the interlocutor of the alleged violation to submit an opinion in writing. The opinion in writing shall be communicated to the Institution within fifteen days following the communication of request. The opinion in writing shall then be communicated to the applicant who shall be asked to submit his/her opinion to the Institution within at latest fifteen days following such communication. Upon request, the Head may extend these periods by fifteen days for once only. When requested by the parties, they may be allowed to make verbal explanations before the Board separately.

(3) Depending on the nature of the inquiry, the Head may invite the

parties to conciliation of its own initiative or upon request after the opinions have been received. The conciliation may involve the cessation of the alleged practise of violation of human rights or discrimination or solutions that will bear such consequence for the victim or be in the form of payment of a certain compensation to the victim. Conciliation shall be concluded within at latest one month. Findings, statements or explanations obtained during negotiations of conciliation cannot be used as evidence in any investigation and prosecution or in any court case.

(4) Minutes of reports on applications and inquiries that could not be settled through conciliation shall be submitted to the Board within twenty days, upon which the Board shall decide whether a violation of human rights or non-discrimination has been committed or not.

(5) In cases where the Board finds any violation of human rights or non-discrimination of a criminal nature, it shall file a criminal complaint thereon.

Inquiry power

ARTICLE 19 – (1) The examination, inquiry, visiting and report drafting duties and other duties given to the Institution by the Law and other legislation shall be carried out by Human Rights and Equality Experts and Assistant Experts and also by other staff members assigned by the Head.

(2) Where authorized by the Head, such personnel listed in the paragraph one shall have the authority to request necessary information and documents from all public institutions and agencies and other natural and legal persons, to examine and take copies of the same, to receive written and oral information from relevant persons, to undertake visits to places where those deprived of liberty and those under protection are held and to carry out examinations in such places and draw up necessary reports and to interview person(s) al-

leged to have been ill-treated. Public institutions and agencies and other natural and legal persons shall have to facilitate the visits undertaken by the Institution and fulfil their requests without delay.

(3) Committees can be established with the participation of representatives from relevant agencies and organizations and other individuals, led by the Institution personnel designated by the Head, for the purpose of conducting on-site examinations and inquiries on matters falling under the jurisdiction and mandate of the Institution. The representatives of public agencies and organizations who will take part in such a committee shall be determined by their own agencies/organizations, and the remaining members of the committee shall be determined by the Head. Results of inquiries and/or examinations carried out by such committees shall be compiled into a report by the Institution. The expenses of such committees shall be covered from the Institution's budget.

(4) It is imperative that the information and documents requested by the Institution by indicating the reason thereof concerning the matter under inquiry or examination be submitted within thirty days following the date of communication of such request.

Assignment of expert witnesses and hearing witnesses

ARTICLE 20 - (1) Expert witnesses may be assigned by the Head or Board in relation to matters under the inquiry and examination of the Board and requiring advanced level of technical and financial expertise. The remuneration of expert witnesses shall be covered by the Institution budget. Qualifications and working principles of persons to be assigned as expert witnesses shall be set forth in a by-law.

(2) Without prejudice to the provisions of the Allowances Law no 6245 and dated 10/2/1954, a remuneration shall be paid to expert witnesses assigned from outside the Institution, maximum five times a month, for each matter of inquiry and examination. Such re-

muneration shall not exceed the amount to be calculated by multiplying the indicative number (1.000) for each expert witness holding a civil service and (2.000) for those not holding a civil service with the civil servant salary coefficient. Such payments shall not be subject to any tax or deduction except for stamp duty.

(3) When deemed necessary in connection with the matter under inquiry and examination, the Board and Institution staff members authorized to conduct inquiries and examinations may hear witnesses or persons concerned

Burden of proof

ARTICLE 21 – (1) In applications filed at the Institution exclusively on the basis of an alleged violation of non-discrimination, if the applicant exhibits the presence of strong signs and presumptive facts relating to the veracity of his/her allegation, then the other party shall be required to prove the non-violation of the non-discrimination and principle of equal treatment.

Consultative Commission and Consultation Meetings

ARTICLE 22 – (1) A consultative commission shall be set up with the participation of public institutions and agencies, non-governmental organizations, unions, social and professional organizations, higher education institutions, printed and audio-visual media, researchers and relevant persons, agencies and organizations so as to discuss problems and proposed solutions pertaining to non-discrimination issues and to exchange information and opinions on these matters.

(2) The Institution shall carry out consultation meetings in the centre and provinces with the participation of public institutions and agencies, non-governmental organizations, unions, social and professional organizations, higher education institutions, printed and audio-visual media, researchers and relevant persons, agencies and

organizations so as to discuss human rights-related issues and to exchange information and opinions on these matters.

(3) Principles and procedures governing the implementation of this Article shall be set forth in a by-law.

SECTION SIX

Miscellaneous and Final Provisions

The revenues of the Institution

ARTICLE 23- (1) The income of the Institution shall comprise the following:

- a) Aids from the general budget
- b) Revenues generated from the movable and immovable properties owned by the Institution.
- c) Revenue from investment of Institution's income.
- ç) Other income

Statistics

ARTICLE 24 - (1) The Institution shall decide, together with the Turkish Statistical Institute and other relevant institutions and agencies, areas in which there is need for collection of official statistics for the purpose of fighting against discrimination. The responsibility for collection of statistical information needed to exhibit all dimensions of discrimination as part of a system that will allow for continuous and full access to the data shall lie with the Turkish Statistical Institute under the Official Statistical Programme.

Administrative Sanctions

ARTICLE 25 – (1) In case of violation of non-discrimination principle, an administrative fine ranging from one thousand Turkish lira to fifteen thousand Turkish lira⁶ depending on the gravity of the effects and consequences of such violation, financial situation of the perpetrator and aggravating effect of the multiple discrimination, shall be imposed on the relevant public institutions and agencies, professional organizations with public institution status, natural persons and legal persons established under private law responsible for the violation.

(2) In cases where the administrative fine cited in the paragraph one is imposed on public institutions and agencies and professional organizations with public institution status; such institutions, agencies and organizations shall seek recourse, for the administrative fine paid, from those civil servants and other public agents or employees who have committed the discriminatory practise.

(3) Individuals and agencies covered by the paragraph one who have failed to obey the obligations provided for in the Article 19 in the prescribed period of time without any valid reason and despite warnings shall be subject to an administrative fine from five hundred Turkish lira to two thousand Turkish lira⁷. The provisions of the paragraph two shall also apply to administrative fines provided for in this paragraph.

(4) The Board may commute the administrative fine issued to a warning for once only. In case of repetition of the discriminatory act of the individual or institution against whom a warning has been issued, then the fine to be declared shall be increased by fifty percent. Such increase shall not exceed the upper limit of the fine.

(5) Administrative fines issued under this Law shall be paid within

⁶ The current amount for this year is determined as 2.672,61TL and 40 179,00 TL

⁷ The current amount for this year is determined as 1.334,76TL and 5.352,36TL

one month of the notification thereof.

(6) Cases not covered by this Law shall be governed by the provisions of the Law on Misdemeanours dated 30/3/2005 and No 5326 in relation to administrative sanctions.

Trainers of human rights and fight against discrimination

ARTICLE 26 - (1) Human rights and non-discrimination trainings shall be delivered by the Institution personnel or trainers of human rights and non-discrimination. Qualifications, working principles and procedures of the trainers as well as remuneration to be paid to them shall be set forth in a by-law with the affirmative opinion of the Ministry of Finance.

By-law

ARTICLE 27 - (1) By-laws relating to the implementation of this Law shall be put into force by the Institution.

Amended and repealed provisions

ARTICLE 28 - (1) The Law on the Human Rights Institution of Türkiye dated 21/6/2012 and No 6332 has been repealed. References made to the abolished Human Rights Institution of Türkiye in other legislation shall be considered to be made to the Human Rights and Equality Institution of Türkiye.

(2) (Related to Civil Servants Law dated 14/7/1965 and no 657, noted in the relevant section)

(3) (Related to Public Financial Management and Control Law dated 10/12/2003 and no 5018, noted in the relevant section)

(4) Cadres of the Human Rights Institution of Türkiye have been cancelled and removed from the relevant tables of the Decree-Law on General Cadre and Procedure dated 13/12/1983 and no 190. Cadres

shown in the attached list (1) have been created and added to the Table no (1) of the Decree-Law in question under the Heading Human Rights and Equality Institution of Türkiye.⁸

(5) Related to the Decree-Law dated 27/6/1989 and no 375, noted in the relevant section.)

Transfer of rights and powers and personnel

PROVISIONAL ARTICLE 1 – (1) Applications related to members to be selected by the Cabinet in the first selection and notifications of nominations shall be filed at the Prime Ministry. Procedures of applications and nominations shall be announced by the Prime Ministry.

(2) Pending the establishment of the organization of the Human Rights and Equality Institution of Türkiye created by this Law, duties and services conferred on the Institution shall continue to be provided by the existing personnel of the abolished Human Rights Institution of Türkiye.

(3) On the date of entry into force of this Article, all sorts of movables, vehicles, equipment, tools and materials, cash and similar values, all debts and receivables, all records and documents kept as soft copy and hard copy as well as personnel occupying the cadres and positions shall be deemed to have been automatically transferred to the Human Rights and Equality Institution of Türkiye without any further procedure being necessary.

(4) Human Rights and Equality Institution of Türkiye shall succeed to the contracts entered into by the abolished Human Rights Institution of Türkiye. Human Rights and Equality Institution of Türkiye shall automatically be the party of all debt collection proceedings and court cases filed in favour of and against the Human Rights Institution of Türkiye.

⁸ See the Official Gazette dated 20/4/2016 and no 29690 about the cadres referred to in this Article.

(5) Office of the members of the abolished Human Rights Institution of Türkiye shall expire on the date of entry into force of this Article. Pending the election of the Head of the Human Rights and Equality Institution of Türkiye according to the procedures mentioned in this Law, the Head and Deputy Head of the abolished Human Rights Institution of Türkiye shall serve as the Head and Deputy Head of the Human Rights and Equality Institution of Türkiye. When the Head of the Human Rights and Equality Institution of Türkiye selected under this Law takes office, the former Head and Deputy Head shall be considered to have been automatically appointed to the Advisor Cadres of the Institution Presidency created through the attached list (2) where they shall serve until the end of their remaining duration of office according to the governing legislation and perform advisory services determined by the Head. Advisory cadres of the Institution Presidency created under this paragraph shall be considered to have been automatically cancelled upon the vacation of these cadres for any reason and in any case upon the expiry of the remaining period of service of the former Head and Deputy Head deemed to have been appointed to these cadres according to the governing legislation. Those deemed to have been appointed to the advisory cadres of the Institution Presidency shall continue to receive, for the remaining period of their service, their remunerations due to them under the legislation that was effective before the entry into force of this Article as part of financial and social entitlements except for payments contingent on the actual exercise of duty. Upon their request at the expiry of their period of service, they shall be appointed to a cadre in the Institution or their previous Institution, in accordance with their education status, length of service and acquired entitlements and salary grade, within one month at latest.

(6) Those occupying the cadres of the Human Rights Experts and Human Rights Assistant Experts on the date of entry into force of this Article shall be considered to have been automatically appointed to

the cadres of Human Rights and Equality Expert and Human Rights and Equality Assistant Expert according to their current grade. Those benefiting from the provisions of the provisional Article 12 of the Decree-Law no 375 shall continue to enjoy these entitlements as long as they occupy these cadres. The period of service spent by those appointed under this paragraph in the cadre of Human Rights Expert and that of Human Right Assistant Expert shall be considered to have been spent respectively in the cadre of Human Rights and Equality Expert and Human Rights and Equality Assistant Expert.

(7) Civil servants other than those mentioned in the above paragraph occupying the cadres of the abolished Human Rights Institution of Türkiye shall be considered to have been automatically appointed to the cadres with the same title created for the Institution according to their existing grade.

(8) Where, on the date when the personnel appointed or considered to have been appointed under this Article has been appointed or considered to have been appointed to their new cadres, if the total net amount (taken as a fixed value) of all remunerations paid in their former cadre during the last month under any name whatsoever including contract remuneration, salary, additional indicator, bonus (net amount for one month), all pay rises and compensations, executive compensation, representation compensation, office compensation, additional payment and similar names is higher than the total net amount of all remunerations paid (except for the overtime pay related to actual performance of work under the relevant legislation) in their new cadre under any name whatsoever including contract remuneration, salary, additional indicator, bonus (net amount for one month), all pay rises and compensations, executive compensation, representation compensation, office compensation, additional payment and similar names; the difference between the two shall be separately paid as compensation until the gap in between is closed.

There shall be no payment of compensation on account of such gap to those whose cadre title changes upon their request or who are appointed to other institutions upon their request.

(9) Period of service spent in the abolished Human Rights Institution of Türkiye until the entry into force of this Law shall be considered to have been spent in the Human Rights and Equality Institution of Türkiye.

(10) Expenditures of the Human Rights and Equality Institution of Türkiye during the financial year 2016 shall be covered by the appropriations of the budget of the abolished Human Rights Institution of Türkiye for 2016 until a new accommodation is done by the Ministry of Finance on the basis of the Central Administration Budget Law for 2016.

(11) Provincial and sub-provincial human rights boards shall remain operation until a new accommodation is done by the President of Türkiye.⁹

(12) The following categories of persons may be appointed as Human Rights and Equality Experts within one year following the entry into force of this Law within the framework of principles and procedures to be set forth by the Board designated under this Law: Those who hold a minimum bachelor degree and have been admitted to the profession with competitive exam and appointed to the central organization cadres of institutions active in human rights after a special proficiency exam following a certain period of in-service training upon their request and subject to the consent of their Institution, judges and prosecutors with their own consent, public employees and academics holding a doctorate degree on issues falling under the mandate of the Institution upon their application. The number of those to be appointed under the provisions of this paragraph shall

⁹ With Article 149 of the Decree Law No. 703 dated 2/7/2018, the phrase "Prime Ministry" in this paragraph was amended as "Presidency".

not exceed ten percent of the number of posts in the cadre of Human Rights and Equality Expert and Human Rights and Equality Assistant Expert shown in the cadre schedule of the Institution.

(13) By-laws relating to the implementation of this Law shall be put into force within six month following the date of first meeting of the Board. Applications about alleged violations of non-discrimination shall be received starting from the date of entry into force of the by-law referred to in the Article 17, paragraph nine.

Entry into Force

ARTICLE 29- (1) This Law shall become effective on the date of its publication.

Enforcement

ARTICLE 30- (1) The provisions of this Law shall be executed by Cabinet of Ministers.

LIST NO (1)**INSTITUTION: HUMAN RIGHTS AND EQUALITY INSTITUTION OF TÜRKİYE****ORGANIZATION: CENTRAL****DETAILS OF THE CADRES CREATED**

CATEGORY	TITLE	GRADE	NUMBER	TOTAL
GAS	Vice Head	1	3	3
GAS	Legal Advisor	1	2	2
GAS	Expert on Human Rights and Equality	2	10	10
GAS	Expert on Human Rights and Equality	3	10	10
GAS	Expert on Human Rights and Equality	4	5	5
GAS	Expert on Human Rights and Equality	5	10	10
GAS	Expert on Human Rights and Equality	6	20	20
GAS	Assistant Expert on Human Rights and Equality	9	40	40
GAS	Financial Services Expert	4	1	1
GAS	Financial Services Assistant Expert	9	2	2
GAS	Translator	5	1	1
GAS	Computer Operator	8	2	2
GAS	Data Preparation and Control Operator	6	5	5
GAS	Data Preparation and Control Operator	9	5	5
GAS	Civil Servant	8	3	3
GAS	Civil Servant	9	3	3
GAS	Secretary	7	3	3
GAS	Secretary	8	4	4
GAS	Switchboard Operator	9	1	1
LS	Lawyer	6	3	3
TS	Librarian	7	1	1
HS	Psychologist	3	6	6
HS	Social Worker	5	10	10
	TOTAL		150	150

LIST NO (2)**INSTITUTION: HUMAN RIGHTS AND EQUALITY INSTITUTION OF TÜRKİYE****ORGANIZATION: CENTRAL****DETAILS OF THE CADRES CREATED**

CATEGORY	TITLE	GRADE	NUMBER	TOTAL
GAS	Advisor of the Institution Presidency	1	2	2



HREIT

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INSTITUTION OF TÜRKİYE**

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